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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/584,471

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EXAMINER

BERNSHTEYN, MICHAEL

ART UNIT

PAPER NUMBER

1796

NOTIFICATION DATE

DELIVERY MODE

03/12/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/584,471	Applicant(s) OUCHI ET AL.	
	Examiner MICHAEL M. BERNSHTEYN	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-9,11,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-9,11,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action follows a response filed on November 17, 2009. Claims 1 and 5 have been amended; claims 3, 6, 10, and 12 have been cancelled; no claims have been added.
2. In view of the amendment(s) and remarks the rejection of claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi (JP 2003-128900) in view of Omura et al. (JP 55-131047) have been withdrawn.
3. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.
4. Claims 1, 3-5, 7-9, 11, 13, and 14 are pending.

Claim Rejections - 35 USC § 103

5. The text of this section of Title 35 U.S.C. not included in this action can be found in a prior Office Action.
6. Claims 1, 3-5, 7-9, 11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi (JP 2003-128900) in view of Nakazawa et al. (JP 2003-192884) and Omura et al. (JP 55-131047).

With regard to the limitations of claims 1, 4-6 and 8, Takagi discloses that automobile parts and electric appliance parts contain a lactic acid resin composition as a major component and shredder dust comes from automobile parts and electric appliance parts containing a lactic acid resin composition. The lactic acid resin composition comprises: (1) 30-100% of a lactic acid resin, (2) 0-50 wt.% of an aliphatic

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polyester having Tg of 0°C and/or an aromatic aliphatic polyester, (3) 0-50 wt.% of an inorganic filler, (4) 0-10 wt.% of a hydrolysis preventing agent and (5) 0-50 wt.% of a plasticizer (abstract).

Takagi discloses that the lactic-acid system resin may mean poly-DL [the poly-L-lactic acid whose structural unit is L-lactic acid, the poly-D-lactic acid whose structural unit is D-lactic acid, and whose structural unit are L-lactic acid and D-lactic acid]-lactic acids, and these mixtures, and may be a copolymer with alpha-hydroxycarboxylic acid, or diol/dicarboxylic acid further (page 3, [0011]). As a polymerization method of lactic-acid system resin, any well-known approaches, such as a condensation polymerization method and a ring-opening- polymerization method, are employable, for example, a condensation polymerization method (page 11, [0012]).

With regard to the limitations of claims 1 and 5, Takagi does not disclose that that the polylactic acid resin composition comprises wherein the polylactic acid capable of generating stereocomplex crystallization is a blend of poly-L-lactic acid and poly-D-lactic acid, and the blend has a ratio of poly-L-lactic acid to poly-D-lactic acid of from 30% to 70% by weight to 70% to 30% by weight based upon a total weight of poly-L-lactic acid and poly-D-lactic lactic acid.

Nakazawa discloses that the polylactic acid polymer composition comprises weight ratio of said poly-L-lactic and said poly-D-lactic acid in the range (L): (D) = 10:90-90:10 (page 2, [0019]), which overlaps the claimed range. Nakazawa exemplifies that weight ratio of said poly-L-lactic and said poly-D-lactic acid is 50 : 50, which is clearly within the claimed range (Examples 1 and 2, pages 9-10, [0080]-[0083]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to adjust weight ratio of poly-L-lactic acid to poly-D-lactic acid in the claimed range as taught by Nakazawa in Takagi's polylactic acid resin composition because in this weight ratio range the formation of stereo complex becomes easy (JP'884, page 4, [0031]), and thus to arrive at the subject matter of instant claims 1 and 5.

With regard to the limitations of claims 1, 4-6, 8, 9, 11, 13, and 14, the combined teaching of Takagi and Nakazawa does not disclose that that the polylactic acid resin composition comprises as aromatic urea compound represented by formula (1).

With regard to the limitations of claims 1, 4-6, 8, 9, 11, 13, and 14, Omura discloses that for improving the mold release and flow properties of an aromatic polyester polycarbonate, it is needed to add a specific urea compound according the claimed formula (1) to the aromatic polyester polycarbonate (abstract, Search results, pages 35-36, Answer 22 of 30).

All three references are analogous art because they are from the same field of endeavor concerning new molded articles being obtained from aromatic polyester compositions.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the mold release agent lubricant such as **xylynenebisurea** compound according the claimed formula (1) as taught by Omura in Takagi and Nakazawa's polylactic acid resin composition in order to improve the mold release and flow properties of aromatic polyesters (JP'047, abstract, Search results,

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pages 35-36, Answer 22 of 30), and thus to arrive at the subject matter of instant claim 1 and dependent claims 4-6, 8, 9, 11, 13, and 14.

With regard to the limitations of claim 3, Takagi discloses that the most desirable thing as copolymerization is **block copolymerization**. It can consider as the polymer possessing transparency and shock resistance by making a polylactic acid segment into an ABA block copolymer typically, if A, for example, a diol dicarboxylic acid segment, is set to B. In this case, as for the glass transition temperature (T_g) of the segment of B, it is desirable that it is 0°C or less, when discovering shock resistance (page 3, [0017]).

With regard to the limitations of claim 7, the combined teaching of Takagi, Nakazawa and Omura does not disclose the claimed properties of the polylactic acid resin composition. However, in view of substantially identical polylactic acid resin composition between Takagi, Nakazawa, Omura and instant claims, it is the examiner position that Takagi, Nakazawa, and Omura's polylactic acid resin composition possesses these properties. Since the USPTO does not have equipment to do the analytical test, the burden is now shifted to the applicant to prove otherwise. ***In re Best*** 195 USPQ 430, (CCPA 1977).

Even assuming that the claims are not anticipated by the reference, it would have been obvious to one of ordinary skill in the art to make the polylactic acid resin composition having the claimed properties because it appears that the reference generically embrace the claimed subject matter and the person of ordinary skill in the art would have expected all embodiments of the reference to work. Applicants have not

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demonstrated that the differences, if any, between the claimed subject matter and the subject matter of the prior art examples give rise to unexpected products.

Furthermore, it is noted that with regard to the limitation of the instant claim 7, the rejections is made in the sense of *In re Spada*, 911 F 2d 705, 709 15 USPQ 1655, 1658 (Fed. Cir. 1990), which settles that when the claimed compositions are not novel, they are not rendered patentable by recitation of properties, whether or **not** these properties are shown or suggested in prior art

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL M. BERNSHTEYN whose telephone number is (571)272-2411. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael M. Bernshteyn/
Examiner, Art Unit 1796

/M. M. B./
Examiner, Art Unit 1796

/David Wu/
Supervisory Patent Examiner, Art Unit 1796